

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOSEPH O'BYRNE, et al.

Plaintiffs,

v.

WEYERHAEUSER COMPANY, et al.

Defendants.

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Case No. 2:19-cv-2493

CHIEF JUDGE ALGENON L. MARBLEY

Magistrate Judge Deavers


OPINION & ORDER

This matter is before the Court on Defendant Westport Homes, Inc.'s ("Westport") and Defendant Weyerhaeuser Co.'s ("Weyerhaeuser") Motions to Strike Jury Demand (ECF Nos. 13, 15) filed in October 2019. Plaintiffs filed their complaint on June 14, 2019 against Westport and Weyerhaeuser and demanded a jury trial. (ECF No. 1). Westport filed a Motion to Strike the Jury Demand, arguing that Plaintiffs voluntarily waived their right to a jury trial through a purchase agreement they signed with Westport. (ECF No. 13). Weyerhaeuser joined in Westport's Motion, arguing that the jury waiver in the contract between the contracting Plaintiffs and Westport also applies to the Plaintiffs' claims against Weyerhaeuser because the cause of action against Weyerhaeuser arises out of the purchase agreement. (ECF No. 15). With the Motions to Strike pending, the Plaintiffs filed an amended complaint on March 24, 2020. (ECF No. 26).

Once a plaintiff files an amended complaint, it "replaces the original." *Fla. Dep't of State v. Treasure Salvors, Inc.*, 458 U.S. 670, 702 (1982). The original complaint is thereafter "null and void." *Glass v. The Kellogg Co.*, 252 F.R.D. 367, 368 (W.D. Mich. 2008) (quoting *Vadas v. U.S.*, 527 F.3d 16, 22 n.4 (2d Cir. 2007)). With the complaint and the claims it contains nullified, motions relating to that complaint and its claims are thus moot. *Id.* (citing *Cedar View*,

Ltd. v. Colpetzer, No. 5:05-CV-00782 2006 WL 456482, *5 (N.D. Ohio Feb. 24, 2006); *Ky. Press Ass'n, Inc. v. Commonwealth*, 355 F.Supp.2d 853, 857 (E.D. Ky. 2005)). Defendants' Motions to Strike (ECF Nos. 13, 15) are hereby **DENIED AS MOOT**.

IT IS SO ORDERED.



ALGENON L. MARBLEY
Chief United States District Judge

DATED: April 9, 2020